IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2508 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BARODA SWITCH GEARS - Petitioner(s)

Versus

BHARAT RAGHUNANDAN BHIKHABHAI & 42 - Respondent(s)

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Appearance :

MR AR MAJMUDAR for Petitioner No(s).: 1.

RULE SERVED for Respondent No(s).: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42,43.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 27/07/2005

ORAL JUDGMENT

1.0 The petitioner has challenged the order dated 18.01.1999 passed by the Labour Court, Baroda in Recovery

Application No.549 of 1985, whereby the said application was partly allowed.

2.0 The brief facts of the case are that the respondents herein filed an application u/s.33(C)(2) of the Industrial Disputes Act, 1947. The case of the respondents is that the concerned workmen are the members of a Union and that the petitioner Company is engaged in the business of manufacture of electric articles, but, in order to see that the employees are not to be paid provident fund, benefits of E.S.I. Scheme etc, the petitioner Company has divided its activities in three parts in three different names. Therefore, the respondents filed recovery application claiming the said amounts.

2.1 The Labour Court, after hearing the parties, passed the impugned order by which all the three companies were ordered to pay the amounts qua the concerned employees within 60 days failing which the employees were permitted to get recovery certificate from the Collector. Hence, this petition.

3.0 Mr. A R Majmudar learned advocate for the petitioner

has contended that some of the respondents herein were not employees of the petitioner Company, and therefore, the Labour Court has committed an error in passing the impugned award against the petitioner Company.

4.0 I have heard learned counsel for the petitioner and perused the documents placed on record. Though served none appears on behalf of the respondents. The contention raised by Mr. Majmudar learned advocate for the petitioner cannot be considered at this stage since the said contention was never raised before the Labour Court. It has been raised for the first time before this Court only. No such contention that a particular workman or workmen was or were not the employees of the petitioner Company was raised before the Labour Court. Hence, such a contention can not be permitted to be raised before this Court. I am in complete agreement with the reasonings given by the Labour Court in its impugned award and find no reason to interfere in this petition. Hence, the petition deserves to be dismissed.

5.0 For the foregoing reasons, this petition is dismissed. The impugned award dated 18.01.1999 passed by the Labour Court, Baroda in Recovery Application No. 549

of 1985 is confirmed. Rule is discharged with no order as to costs.

(K. S. JHAVERI, J.)

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